

Supreme Court of Pennsylvania

# Installation Ceremony

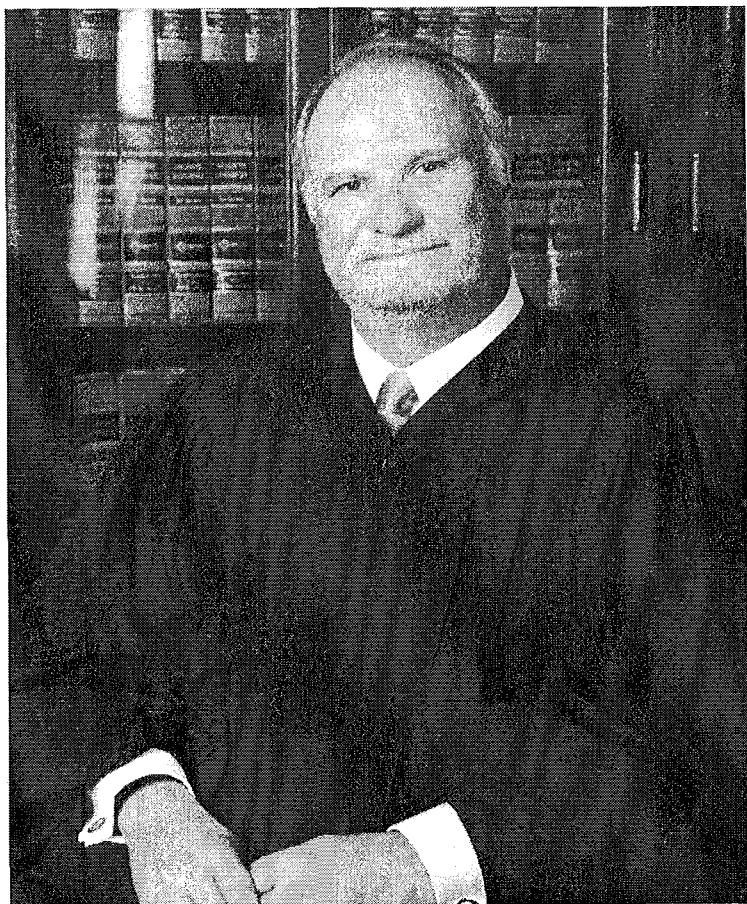
HONORABLE

RALPH J. CAPPY

Friday, January 3, 2003

11:00 a.m.

The Supreme Court Courtroom  
8th Floor, City-County Building  
Pittsburgh, Pennsylvania



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# Proceedings

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(Whereupon, the proceedings were called to order.)

CHIEF JUSTICE ZAPPALA: Good morning, ladies and gentlemen. I don't know if this is on or not. Can you hear me back there at all? See what retirement does for you? I don't even know where the buttons are.

On behalf of the Supreme Court of Pennsylvania, the Cappy family, the Commonwealth generally, we appreciate you being here. I asked the Bishop if that was sunshine, and he said you should be very happy you're not shoveling, so be happy for what we now have.

I was somewhat amazed because I think seated to my right was my predecessor—pardon me, my left, I'm sorry—the former Chief Justice, and I think we're having a rather unique occasion here this morning in that I was prompted by Chief Justice Emeritus Flaherty by being told that the history of the Chief Justices go back to the year of 1681, and that as we move forward ceremonially this morning, we have in the courtroom Chief Justice number 54, Mr. Flaherty on my left, Chief Justice Zappala who is seated in the middle, and then number 56 to be sworn in this morning, Chief Justice Ralph Cappy.

I was admonished that we had to start on time, we had to move rapidly, and that we wanted to make sure there would be no long speeches. I think all are cognizant of the fact that I can control that with the exception of one thing, that when Mr. Cappy is sworn in, he's the boss, and I can't hold that, Governor, I'm sorry.

On that note, let us commence with the program, and it really is my distinct honor to have with us today the Most Reverend Donald W. Wuerl, the Bishop of the Catholic Diocese of the City of Pittsburgh, a man of honor, a man of

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distinction, a man of the cloth, and if I said I ever wanted a priest, this is the man I would want. Your Excellency, Bishop Wuerl.

BISHOP WUERL: Mr. Chief Justice, Justices and dear friends. From time immemorial and in nations around the world there is a longstanding tradition involving courts such as the inauguration of the court or the installation of a justice that it would begin by invoking divine providence. This tradition in our country goes all the way back to our own United States Supreme Court which at its first session opened with a prayer. It's fitting then that at this installation ceremony of the Honorable Ralph Cappy, Chief Justice of the Pennsylvania Supreme Court, that we begin with an invocation asking God's blessing, God's grace and God's guidance on him, on this Court and on all who it serves. Let us pray.

Good and gracious God, we who gather here join all creation in Heaven and on Earth in praising You, Almighty God. You made us in Your image and likeness and challenge us to walk in the way of truth and justice. The prophet Isaiah described the coming of Your kingdom and the realm of grace as a time when justice would reign down from Heaven like dew, like gentle rain from the skies, and the earth would open and salvation would bud forth, and justice would spring up throughout the land.

One of the deepest longings of the human heart is the desire to see justice among all people, but the prophet's pledge was fulfilled in Christ, Your son, whose birth and epiphany we celebrate throughout this community. From generation to generation You have planted the seeds of awareness of Your divine presence and the right order of things in our hearts and in our understanding.

When our ancestors came to this land seeking freedom and a fresh start that would bring justice and prosperity to them and their children, they praised Your name and built our society, aware of Your law echoing in our hearts. As we pray today for the Supreme Court Chief Justice Ralph Cappy, we ask You to continue to bless him, provide him always an awareness of Your presence, the role of God's wisdom in all

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human affairs and a lively desire to see justice direct our human affairs. Endow him with the precious gifts of wisdom and understanding, counsel, fortitude, knowledge and a keen delight in justice. May he be, as was Your holy servant, Thomas More, the Court's good servant because first he is Your good servant. This prayer and all our prayers we make in Your most holy name. Amen.

CHIEF JUSTICE ZAPPALA: I want to note, Governor-Elect Rendell, Justice Castille wanted to know should we hold you in contempt? Be aware the power of the Court. I'm just kidding because you've got a federal judge sitting next to you.

At this time it is our distinct honor really and privilege to have here for the ceremonies the 44th Governor of this Commonwealth. I had met this young man I think back in 1996 when he was, quote, "just only the Lieutenant Governor." At that time I think there was promise which he demonstrated and showed just by his activities.

The statement was made, the person made for the right time and the right place, and although his term was relatively short, I think his indelible marks will be left upon this Commonwealth. I think, indeed, it is an honor, Governor, to have you here this morning, the Honorable Mark Schweiker, Mark.

GOVERNOR SCHWEIKER: Thank you. I feel obligated that we acknowledge with a round of applause the leadership of Justice Zappala for his efforts. Thank you so much.

Justice Cappy and I had a quick conversation, and I was reminded of a moment that I had experienced not too long ago, and it was a big college commencement. There probably were 10,000 people there, and you know what the atmosphere is like, and I was walking with the president of the university, and as we turned up the center aisle, one of the students turned to me and yelled, hey, I voted for Tom Ridge and you, I hope you're going to be quick up there. So I ultimately told 10,000 people, but when I repeated it, there was a great round of applause at the thought that I was mindful of brevity and quick remarks, and I think Justice Cappy and certainly Justice Zappala understand the appropriateness of appropriate

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length, and I appreciate your remarks, Justice Zappala, and certainly, Judge Cappy, only the best to you, and I appreciate the opportunity to visit with you, and I do feel a sense of privilege at being able to offer some brief comments.

This is an accomplished Court because of some superb leadership over the years that has been provided already to some extent referenced by Justice Zappala, and I do believe that Justice Cappy will continue in that vein. I feel a great sense of encouragement, and I would suggest and hope that Pennsylvanians have the same take on the leadership that Justice Cappy will provide.

I do believe that over and above his outstanding intellect and his hunger to be objective in weighing opinions and offering judicial solutions that he understands that at the end of the proverbial day and, for that matter, as I address the Court all members of the Supreme Court feel this way, that ultimately the test of a valid and helpful Supreme Court is how it benefits regular Pennsylvanians. That has been the legacy over and above stellar opinions, and I certainly believe that's going to continue, and I harken back just a few months ago to the Bethlehem Area School District decision. It certainly did my heart some good and I believe Pennsylvanians, ordinary people who want schools to be safe. You see, friends, there was a child there who decided, actually an older student who decided that he was going to use the internet, issued some threats and used some rather violent commentary directed at a principal and a teacher, and it was Justice Cappy with some thoughtful work that said, no, schools are for kids trying to learn; schools are for parents who want safe classrooms and environments; schools are for principals and educators trying to do the job, and whether the threats are issued on a school bus, in a locker room, in a hallway or over the internet, it had to be confronted, and I was proud of that opinion and proud of the figurative line that he drew and said that, yes, this Court, this important institution rich and as accomplished as it's already been described, needs to back up those educators.

In my estimation, friends, it said to me that this Court, and yes, Justice Cappy saw a profound obligation to back up this important endeavor in schools and that he saw that the

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role of the Court was to back and to respond to the legitimate interests of parents and ordinary Pennsylvanians. I'm encouraged by that, and for that reason I believe Pennsylvanians have the same sense of hope and encouragement as they ponder the leadership of Judge Cappy. Why else would the Mothers Against Drunk Drivers offer the citation that they did in honor of Justice Cappy's work, and most importantly, at least something I, whether I had won or lost in 1994, I wanted to talk about the importance of elevating victims' rights to the same plain as the defendants' rights, and Justice Cappy and this Court have sought to do that. That's so important, and I do feel a great sense of obligation ever so respectfully as I move toward my final days to look you in the eye and ask you to continue that march to elevate victims' rights. The Court exists for ordinary people, and yes, at times to recognize the fact that victims and survivors are overlooked.

I'm someone that spent seven years in a courthouse as a county commissioner. Admittedly, my political lineage is a lot different than people who held the office of Lieutenant Governor and Governor. One thing you never forget, at least one thing I've never forgotten is when a 12-year-old child faced the onslaught of a pretty determined and aggressive attorney, and this is a child who had lived 12 years of sexual molestation, you don't forget that. No one should forget that, let alone a young commissioner who became the Lieutenant Governor, ultimately Governor, and whether I had won or lost in 1994 with Tom Ridge, we wanted to talk about the importance of promoting and elevating victims' rights, and that's an obligation and challenge for all of us at all levels of the judiciary, certainly in this high court.

The reason I mention that is I haven't forgotten that experience, and I'm encouraged to note that over the last eight years this Court has sought to do the same, and I do believe, Justice Cappy, that your heart is in the right place when it comes to that important obligation and march to give victims their rights in the Court, and I know I'm in the company of Pennsylvanians who feel the same way.

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Having said that, I will finish and return to my place and wish you only the best, Justice Cappy, as this distinguished Court begins its business.

You know, a great orator once said, justice, my friend, sir, is the greatest interest of people on earth. Justice manifests in many ways, maybe in that Bethlehem Area School District opinion and in that community and in that school victims that you'll never know and countless other ways, and what encourages me today is I believe that this gentleman soon to be the Chief Justice of one of the richer and historical courts in the land knows exactly how to meet that challenge and to meet that interest.

CHIEF JUSTICE ZAPPALA: Thank you, Governor. At this time I would like to divert for just a few moments to acknowledge some of the state officials who are here and, of course, initially I start with the former Chief Justice John Flaherty on my left, Justice Nicholas Papadakos on my left. Also seated next to Nick is our US Attorney Mary Beth Buchanan, and although this is not nepotism, sitting next to the US Attorney I think is a gentleman by the name of Jonathan Newman who is the Chairman of the Liquor Control Board but no relation to Madam Justice Newman.

Also I think it's an honor, too, having in the audience today the Senate Majority Leader, Chip Brightbill, excuse me, Chip, here from Lancaster County. Seated next to Chip is the Senate Pro Tem leader, he made it finally, Bob Jubelirer, our Lieutenant Governor, Senate Pro Tem, Mr. Pennsylvania. The only thing that makes Bob any better than who he was is that he has this distinguished young lady sitting next to him on his left, his new wife Judge Renee Cohn, excuse me, a pleasure having you here today, from the Commonwealth Court. And as usual, one of the real dominant features of Western Pennsylvania, Mike Fisher, our Attorney General, Mike and his wife Carol.

Our distinguished County Executive from Allegheny County, the first county executive, and maybe we'll go to 56 some day, Jim, I'm not sure, Jim Roddey, our County Executive. And as I understand it, finally after the Mayor-Elect and

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the—excuse me, Governor-Elect and the mayor had their conference, the Mayor showed up, Mayor Tom Murphy. Tom, I hope you got something. And, as always, I would be remiss, Madam, I think the city's mayor, known throughout this state, none other than Sophie Masloff.

And the matriarch of democratic politics in Pennsylvania and Allegheny County for years and years, and if you were any way in politics, you had to know this woman, she was magnificent, Rita Wilson Kane, Rita.

Now it is my distinct honor and pleasure to introduce the next gentleman who ran for a position I'm not sure why he did because he's got a budget deficit of about 1.2 billion, something like that, but with the old theme if I can turn Philly around, I can turn anything around, but it is, indeed, an honor to have the Governor-Elect here with us this morning, Governor Ed Rendell. Please, Ed.

GOVERNOR-ELECT RENDELL: Well, good morning members of the Court, and I'd like to join Governor Schweiker in saluting the short but very effective term as Chief Justice of Chief Justice Zappala who has served wonderfully on this Court for many years, and I'm always amazed with the wealth and body of knowledge that the current Chief Justice has, and I won't ask you how you knew that the Mayor and I were meeting a few minutes ago, but it is true, and let the record show that if I was late, it was because of the Mayor.

You know, Governor Schweiker made a very poignant observation that the work of this Court is not just an academic exercise; it's not just a legal debate; it's not just theory that's being debated. Often citizens ask me, well, you know, I don't understand what the Court does; it really makes decisions that affect corporations or very rich people, and it's really nothing that affects our daily lives, and if people think that, they couldn't be more wrong. What this Court does every day and in every way affects the lives of ordinary Pennsylvanians. Those Pennsylvanians that Mark talked about are affected by everything we do.

If you were to total up the issues that are the most serious that confront the citizens in this state, you would find

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that in each and every one of those issues this Court has or has had a significant impact. Governor Schweiker and I combined on an aspect just a few days ago which brought some short-term relief to the very serious problem that we were facing in this Commonwealth involving the medical malpractice liability insurance crisis, but this Court has played a role in the past and will continue to play a role in affecting what the parameters are for tort reform, what the obligations are for counsel as we go through the entire spectrum of malpractice litigation.

In every issue it is important that these justices not only be great legal scholars but be great people, people who understand the needs of ordinary Pennsylvanians, and we have been served so well by Chief Justice Zappala because he, as much as anyone, exemplifies someone who understands what real people are all about, understands the needs that confront ordinary working people that are trying to make a go of it in this world, and we are equally excited to have Ralph Cappy become the next Chief Justice of this wonderful court, a chief Justice because of his youthful age, identical to mine and Governor Schweiker, will serve a significant time and leave a tremendous impact, not only on the business of the court but on the business of the people of Pennsylvania, and Ralph Cappy is someone who understands people. He is a people person.

Those of you who have grown up with him and know his career as a lawyer and public servant here in Allegheny County know that all too well. He is a person who understands and will act accordingly and will balance the interests of the people, as Governor Schweiker suggested, but he's not just a people person; he's a more than competent legal scholar, and as he told us last night, the business of this Court is not just to decide cases, but unlike other courts the business of the Supreme Court of Pennsylvania is to look after the administration of justice in every court in this great Commonwealth, and Justice Cappy has proved himself to be a superior administrator.

Many of you may not know it in this end of the state, but he took on the difficult assignment of restructuring the Phila-

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delphia courts at a time when the Philadelphia courts desperately needed restructuring. He took on an assignment that had many challenges, including very set-in-concrete political interests, and those interests had to be moved. Those interests had to be challenged. Those interests had to be changed, and it took a formidable leader and a formidable administrator to accomplish all that was done, and the court system in the City of Philadelphia is an excellent system now, and it's an excellent system functioning well because of the leadership, because of the tough and courageous decisions made by then Justice Cappy.

Ralph Cappy will be a great Chief Justice. He's a wonderful lawyer, a wonderful person, a wonderful administrator and someone who, as Governor Schweiker suggested, will never forget for one instant the needs of the people of Pennsylvania.

CHIEF JUSTICE ZAPPALA: Not to be overlooked, I'd like to introduce his lovely wife, a judge of the Third Circuit Court of the United States, Midge Rendell. Midge, thank you for coming. Very quickly, we also have in the audience our court administrator, the state court administrator, Zygmunt Pines, sitting here on my right, lower right. I have been asked to make the following introductions, and this is not nepotism, this is on my sheet, the District Attorney of Allegheny County, my son Stephen sitting right here. Also, as I understand it, and this is rather unique, Justice Cappy, we have both the Governor, we have the Governor-Elect, and we also have the Lieutenant Governor-Elect in the audience, Cathy Baker Knoll, Cathy.

It's my further understanding that the President Judge of the Fifth Judicial District, Bob Kelly, Allegheny County, is here also. The President Judge of the Superior Court, one of our old gang of 79, Joe Del Sole is here. We have the lovely chief judge of the Federal District Court, you'd better watch, Donetta Ambrose. And her predecessor who is also I think you know, Midge, on the Third Circuit, Brooks Smith is here. Brooks, glad to see you. And I think the Honorable Robert J. Cindrich, one of the finer judges of the Federal District Court, is Bob here?

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Now, these two gentlemen I think were only put on the list because of their relationship with the Chief Justice-Elect, let me introduce Tony Wettick, one of the hardest working judges in Allegheny County I think is here, Tony. And last, but not least, at this time the Honorable Frank Lucchino, Frank.

At this time it is again my distinct honor to introduce the next speaker that I've been following around since last night because I asked Mark, I said, do you have a vacancy down there as athletic director? I played at Central Catholic. And did he run away from me when I said Central Catholic.

At this time, we have a former neighbor of mine way back when, who has achieved great heights. He's done an excellent job as the Chancellor of the University of Pittsburgh, brought it back to the forefront which Pitt always was to be, I introduce to you the Chancellor Mark Nordenberg of the University of Pittsburgh.

CHANCELLOR NORDENBERG: Thank you, Mr. Chief Justice. May it please the Court, though we have known each other for a longer period of time, I first partnered professionally with Ralph Cappy about 15 years ago. Fittingly, that occurred when we both were members of a Supreme Court task force. My most directly relevant memory of that experience has nothing to do with the work we did but instead is tied to a passing but prescient comment.

One afternoon while boarding a plane to Philadelphia, another task force member put his hand on my shoulder, looked in the direction of then Judge Cappy and wistfully asked, Mark, if I was as big and good looking as Ralph, how much farther do you think I could have gone in the legal profession? I think the sky would have been the limit.

Just how high that Cappy clone might have climbed remains an academic question, but today we are privileged to see and to celebrate just how far the still handsome and powerfully built Ralph Cappy has come himself because today he reaches a pinnacle of the legal profession, Chief Justice of the highest court of our Commonwealth and the oldest appellate court in the land.

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This is a memorable moment for most of us in part because Justice Cappy is our friend. We then are happy for him, but beyond that because of our relationships to him we are happy because we know so well the very special human qualities that he will bring to this new position. They include an active and agile mind, commitment, courage, good judgment, common sense and perhaps most important of all a caring heart. Justice Cappy is one of the kindest, most considerate and genuinely empathetic individuals I ever have known. He takes his responsibilities seriously without taking himself too seriously, a wonderful combination of qualities in any person but especially in a jurist.

He is the embodiment of what Justice Frankfurter called dominating humility which includes the ability both to form and to unform habits of mind, the capacity for detachment and the temperament for putting one's passion behind his judgment instead of in front of him.

This is a special day in particular for the University of Pittsburgh. Any educational institution makes many of its most important contributions through the work of its graduates. At Pitt we are very proud that the new Chief Justice will have two of our diplomas hanging in his chambers. We also feel good about the fact that even before this momentous occasion we had the foresight to recognize Justice Cappy as one of our most distinguished graduates by naming him a Legacy Laureate, and we are especially grateful for the lifelong ties that have bound Justice Cappy to his alma mater. These include service as a member of our Board of Trustees and as chair of the Board of Visitors of our School of Law. Those links, I should underscore, are grounded in more than institutional loyalty reflecting instead his own belief in the power of education as a principal tool both of individual improvement and of social progress.

In a country and a Commonwealth like ours built as they are around the rule of law, this is a milestone moment not only for Justice Cappy's family and friends and colleagues but for the broader society. In describing the place of law in American life, Judge Learned Hand said, without it we cannot live. Only with it can we ensure the future which by right is ours. The



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best of man's hopes are enmeshed in its success. When it fails, they must fail. The measure in which it can reconcile our passions, our wills, our conflicts is the measure of our opportunity to find ourselves.

Already Ralph Cappy's professional life has been devoted to the law as a clerk, as a private practitioner, as a public defender, as a teacher, as a judge and as a justice. Today as Chief Justice he assumes a new and very special role in preserving, protecting and advancing our system of laws. In doing so he will be building on a rich legacy of leadership that most recently has included the important contributions of Chief Justice Zappala and Chief Justice Flaherty. In doing so he will be moving forward in partnership with the other distinguished members of the Court, and in doing so he will need from time to time the help of everyone gathered for this ceremony today.

Mr. Justice and soon to be Mr. Chief Justice Cappy, you have been a wonderful friend and a respected colleague. We salute you for a life of service already characterized by high achievement. We look forward to the many good things that we know will come from your work as Chief Justice, and we stand not just ready but eager to be of service to you, to the Court and to the broader cause of justice in any way that we can. Congratulations and best wishes.

CHIEF JUSTICE ZAPPALA: Again, on the state level this gentleman I think was a great asset to soon-to-be-appointed Chief Justice Cappy in the development of I think one thing close to Ralph's heart, and that maybe will be a judicial center in Harrisburg one of these days, Jim Sheehan over here on my right, the chief counsel to the Governor's office.

Also on the state level, and again, I'm going by the seat of my pants here as I can see, I'd like to introduce first two very distinguished jurists who will be retiring or are retired now after spending I would say close to 100 years of service between the Bench and the Bar, and I know for one I wish them, or two of them, both well, and that's the Honorable William Cercone who is here and also the Honorable John Brosky. Also from the Superior Court I note that the Honor-

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able Justin Johnson is here, Judge Johnson. And from the Commonwealth Court the Honorable Jess Jiuliente.

At this time I don't think there's any man needs an introduction as far as Justice Cappy is concerned. I think he's not only the adopted son, he's the true son of the Justice Mr. Ralph Cappy, none other than Erik Fry. Erik, please.

MR. FRY: May it please the Court, I have the honor today to speak on behalf of our family, and though I have not cleared these remarks with your new Chief Justice, I will begin where I know he would by honoring his wife and his father. They both share with all of us so much love, warmth, generosity and grace. Ladies and gentlemen, Janet Cappy and Joe Cappy.

For those of us in the family, dad's professional accomplishments are extensions of the personal qualities that we have known in him as father, husband, brother and son. We are especially proud of him today, but we are not surprised. We know he is a very bright, very capable, very organized guy. As I can testify, he's a motivator and a very pragmatic problem solver, but most of all he's a great father, he really is.

He's an athlete who loves competition. He's a dominant softball player, an intimidating tennis player. In recent years he's turned more to golf, and I can assure you he is the strongest 12 handicap in Western Pennsylvania. He hasn't played enough golf to keep his natural talent in a steady groove, and he's not really a betting man, but over the years I have managed to accumulate one hole at a time a debt of several hundred hot dogs to your new Chief Justice, and I'm very interested in any advice I may be able to get after this meeting as to how I can avoid collection on that.

Anyway, for my mother's sake, if not for mine, we could do with more golf during the leisure times rather than the motorcycle trips. There is no sight more terrifying to us than seeing our Supreme Court Justice barreling down the highway singing off key and at high volume to the sounds of the Rolling Stones, but, of course, we know that the cycling, the solo trips across the country are just further expressions of his life force.

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He is a gregarious man with a magnetic personality, and he really is just as comfortable conversing with a heavily bearded Harley-Davidson rider in a greasy spoon as he is dining with heads of government and industry at much nicer places. My dad has never put on airs because he doesn't feel them and he doesn't need them. Our entire family leans on him for guidance in troubled times.

He is practical, and he is a terrific manager, but also because he has such perfect empathy for other people he can almost always get you to see and do the right thing. In short, he has the most remarkable talent for motivating people to get the most out of themselves. The man that you elevate here today we know as a family man, and we know he'll do you proud. Congratulations, Dad.

CHIEF JUSTICE ZAPPALA: You can believe Ralph wrote that speech. I'm just kidding. On the state level again, and I apologize because again I'm trying to do the best I can, and thanks to my colleagues on the left and right, Mike Joyce from the Superior Court is here, Maureen Lally-Green, Judge Joe Hudock, Judge Mary Jane Bowes, Judge John Bender and Judge Pat Tamilia from the Superior Court. Thank you for being here.

I understand that Bonnie Leadbetter from the Commonwealth Court is here, and this all happened because I was able to walk through security with two false knees without the bells going off, the Sheriff of Allegheny County, Pete DeFazio.

At this time I'd like to call upon a very distinguished barrister and a very close friend of Ralph's. He has distinguished himself not only in the profession but I think called upon on many occasions as relates to various committee assignments by our Court, just a wonderful gentleman, Ed Klett. Ed.

MR. KLETT: May it please the Court, it was a day much like today in January of 1990 when then Judge Ralph J. Cappy of the Court of Common Pleas of Allegheny County was installed as a Justice of the Pennsylvania Supreme Court. I recall Justice Papadakos saying that he was especially pleased to welcome Judge Cappy to the Court because for

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four long years he had served as the junior justice, and in his words he was now free, free at last. It was an especially happy day because Judge Cappy was surrounded by his family, friends and judicial colleagues. Janet and Erik were there. At the time Erik was a recent graduate of the University of Pittsburgh, and Judge Cappy's father Joseph was there beaming with fatherly pride as he is today.

Many of those in attendance that day had assisted Judge Cappy in his grueling but successful statewide campaign for a seat on the Supreme Court. Many were there to share in Judge Cappy's success and were looking forward to the reality of his taking the oath of office as a newly elected justice. On that day, some 13 years ago now, Justice Cappy immediately following his installation spoke about life's alternatives. He spoke about the support that he had received while he was growing up in Brookline from his mother, father and sister and from many, many others along the way. He quipped at the time that, but for that support, he might have ended up as a proprietor of the Happy Cappy used car lot.

Today marks the occasion of Justice Cappy's installation as Chief Justice of Pennsylvania. In just 13 years he will have progressed from the junior justice on the Court to the Commonwealth's highest ranking judicial officer. As our mutual friend Jack Mascara often remarks, and Jack himself recently received a national Entrepreneur of the Year award, what a great country this is. Only in America can a person not of privilege achieve such success. Of course, Jack has many numerations of that, but that's the essence of what he often remarks.

In a larger sense, however, Justice Cappy's progression to Chief Justice is but one example of how our system of government is preserved by means of an orderly transition of leadership. Of like importance, it was 13 years ago that the late Governor Casey was here to participate in Justice Cappy's installation ceremony. Today Governor Mark Schweiker is here, as is Governor-Elect Ed Rendell. Remarkably we also have in attendance Mike Fisher, our current Attorney General and recent candidate for governor.

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Certainly this is one of those important occasions when political partisanship is put aside out of respect for the Supreme Court and the installation of its new Chief Justice. Only in America would this happen. Throughout his career on the bench Justice Cappy has manifested integrity, compassion and judicial temperament. He is a wise and deliberative jurist who has a profound respect for the rule of law, but when circumstances require, he has been open to changing the law to reflect a new and enlightened public policy.

His focus and hard work have enabled him to advance the interests of the courts in the executive and legislative chambers in Harrisburg. He also has worked well with the federal bench, but most importantly, and other speakers have mentioned this as well, he has always performed his judicial role with a sense of good humor and from a down-to-earth perspective.

I can say with enthusiasm that the Bar of Pennsylvania looks forward to assisting Chief Justice Cappy and the Supreme Court in supporting and promoting the interests of justice in Pennsylvania.

Before concluding and again as a representative of the Bar I want to offer special thanks to Chief Justice Zappala for his outstanding services to the citizens of Pennsylvania for over 22 years. His contribution is especially remarkable when I take into consideration the drag that brother Richard, our next speaker, has had to have had on his career. I know there will be a payback soon.

One final reflection. Mr. Justice Cappy's service as a public servant has been a win-win situation for all Pennsylvanians. Not only have the citizens of Pennsylvania been served by his judicial contributions but undoubtedly since he never had to open the Happy Cappy used car lot the used car operators across the state are a lot better off as well. Congratulations and thank you.

CHIEF JUSTICE ZAPPALA: At this time I would like to introduce the President of the State Bar Association, Tim Carson, who came in especially for this, and also I think we have the Senior Judge Jim Kelly from the Superior Court

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here. And I assure you that's the end of the introductions unless Justice Cappy gives me another one.

At this time, you talk about nepotism, I introduced my son, now I've got to introduce my brother. Now, I don't know how to introduce your own brother, especially when I was writing opinions and I would get these very caustic phone calls, how in the hell could you do this? Well, of course, all I said was, if you have the four votes, you can do anything you damn well please. At this time, my younger brother I would like to introduce, my younger brother Richard, please.

RICHARD ZAPPALA: Mr. Chief Justice, brother, justices, the Chief Justice-in-waiting Cappy, Bishop Wuerl and honored guests, I first want to apologize for the gravel in the throat, and please bear with me, but if I may, I would like to seize this opportunity appearing before this honorable court for a personal indulgence, if I may. It is my fervent prayer that from this day forward I no longer have to address my brother as Mr. Chief Justice.

It is an honor and a privilege to speak to you today on behalf of a rather large contingent of people known as Friends of Ralph. 13 years ago I had the honor and privilege to speak on behalf of family and friends of Ralph on the occasion of his being sworn in as a member of this Court. With the maturing of his son Erik who spoke so eloquently on behalf of the family, my constituency has been substantially reduced, but I do represent, nevertheless, a very proud constituency in the Friends of Ralph.

Ralph, as we know and Ed has mentioned, grew up in the Brookline area of Pittsburgh. Brookline, for those that don't know, was and is strongly ethnic with local shopkeepers, local businesses, local schools and churches. Suburban sprawl never affected Brookline. Brookline was all about the people.

Now, some might say that Ralph has come a long way from Brookline. I take issue with that. I say he hasn't left Brookline. He is still the same guy. He is still all about people. We are all here as friends of Ralph, even as family members of friends. Isn't that right, Joe Cap? However, friends can and do disagree. As between Ralph and I, it seems that there are

not too many subjects that we agree upon. As Erik has alluded, I know that he manages his golf handicap. He denies it. He wrongly accuses me of managing my handicap. He's a Pitt man. I'm a Notre Dame fan. He goes so far as to say philosophically that I am right of Attila the Hun.

Now, all of Ralph's friends know that when he started out, he looked at Karl Marx and turned left, but I am reminded of that old adage, if you are not liberal when you are young, you have no heart, and if you are not conservative when you are older, you have no brain. I'm happy to report that as the years have advanced and with some prodding from his friends, Ralph is now much more prone to utilize his brain.

The mere fact that I spoke 13 years ago speaks volumes for Ralph. His friends from 13 years ago are his friends today. His friends from 20 years ago are his friends today. His friends from 25 years ago are his friends today. His—I think you get the point. In fact, I look around this room and I see his old squash buddies from way back, his friends from those raucous years on the Pitt campus, his old tennis partners, his motorcycle companions, past and present, his past colleagues on the bench and guys he has golfed with for years, and all of us supported Ralph 13 years ago when he ran for a seat on this court. We obviously didn't do so because we were in philosophical harmony, as I mentioned earlier. We did so because we had faith, trust and respect for his intellectual honesty and integrity.

I was curious about what I said 13 years ago about Ralph, so I just recently looked at the tape of the event from 13 years ago for the first time. What I discovered shouldn't really surprise anyone. I talked then about his ethnic heritage, his athleticism, his travels, his competitiveness, but I described him with a strange word. I described him as mannerly, mannerly in the way he treats people, and I said, and I quote from my remarks 13 years ago, quote, "he is the same kind, caring person he was 20 years ago. He truly cares about people regardless of their station in life. In fact, he has grown more mannerly as his station has grown," close quote. That's the Ralph we knew then and the person he is today.

He is still a very bright man with a great sense of humor. He has an honesty and integrity second to none and still possesses an abiding faith in his fellow man, and there are other traits that Ralph brings to the Court, namely dignity and respect, and not necessarily in that old traditional way where justices ran around fully robed at all times. No one can call Justice Cappy formal. He'll have a drink with his friends, he'll ride motorcycles with his buddies, play golf with his friends and do a great job of just goofing off with his friends, but he has never done anything but demand and earn respect for and, hence, enhance the dignity of this honorable Court. It's a fine line to walk, but Ralph has done it very well.

Will he change? Will he get caught up in the pomp? Will he forget his roots, his friends? Unequivocally no. His record has proven it. You look around the room at this assemblage. This room is filled with people who are his friends, some of whom possess great power and influence, and as Chief Justice, Ralph is and will be a powerful and an influential person. Powerful people never have a hard time gathering such a crowd, but don't for one moment believe that that's the reason we are here today.

Ralph Cappy doesn't need power and influence to fill a room for his recognition. We are here because we consider him our friend. He never allowed power, wealth or influence to affect who his friends would be and who he was affectionate toward. In these past 13 years he hasn't flinched, and he has rewarded all of us by his thoughtful and unbiased deliberation and analysis to all court matters.

Thank you, Mr. Chief Justice-in-Waiting for rewarding our trust in you. Our friend, Ralph J. Cappy, to be the Chief Justice of the Pennsylvania Supreme Court, the oldest court in the country, can you believe it? Realistically we know that this new honored position will provide a continuing test to Ralph Cappy. People will want to get close to his power and influence, sorry he doesn't have a lot of wealth, and some for all the wrong reasons, but that comes with the job, but in Ralph's case we know it won't leave with the job his old friends. He is just too rooted, too strong, too honest to deviate from his basic beliefs.

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Justice Cappy, in a moment I will be reading the official commission from the Governor appointing you as Chief Justice, but before I do I want to tell you on behalf of all your friends here assembled, thank you for being the man you are, thank you for being a true friend, thank you for serving us all so honorably. We love you.

Mr. Chief Justice, with your permission may I read the Governor's commission. Greetings: Whereas, a vacancy occurred for the Office of Chief Justice of Pennsylvania, and whereas, you are now serving by virtue of a commission from the Governor as a Justice of the Supreme Court of Pennsylvania and are the justice learned in the law oldest in commission, and therefore, by virtue of the Constitution and the laws of the said Commonwealth, become the Chief Justice. Therefore, know ye that in conformity to the provisions of the Constitution and the laws of said Commonwealth, in such case made and provided, I do by these presents commission you to be Chief Justice of Pennsylvania and the Supreme Court of Pennsylvania. You are, therefore, to have and to hold the said office together with all of the rights, powers and emoluments thereunto belonging or by law in any ways appertaining from January 1, 2003, if you shall so long remain a Justice of the Supreme Court of Pennsylvania and behave yourself well. Given under my hand and the Great Seal of the State at the City of Pittsburgh this 3rd day of January in the year of our Lord 2003 and of the Commonwealth, the 227th, signed by the Governor.

CHIEF JUSTICE ZAPPALA: Thank you. I was also told that the President of the Allegheny County Bar Association is in attendance today, Fred Egler, Jr., Freddy. So that you know that there is no bad blood, the speech that my brother gave, it was my name and he removed it, and my mother will hear about this post quick.

We are now at the I think most important part of the entire day, or morning I should say, and I assured the members of my Court that it would take us no more than an hour, and I go out of my tenure not telling the truth, which is a shame.

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In reflection, I saw this young man develop back in 1977 as a trial judge. I had the distinct honor of running with him back in 1979 as a candidate for the Court of Common Pleas. I had the honor of sitting on the Fifth Judicial District with Ralph for about three years. I was too stupid. I decided to run for a higher office. I noted the growth which had occurred, but in his tenure, whether it be in a family court, civil court, criminal court, head administrator, whatever it may be, he never shirked from either his duty or his responsibility.

When it was called upon that there was a need on the Supreme Court, I must admit I asked Ralph, get your running shoes, we're going to go, and probably that was the best thing I had ever done because I must say candidly I have never had a finer colleague, a more reputable person, more loyal person than Ralph Cappy. And as I change the mantle, I can see no one else to succeed this chair than the gentleman sitting on my right. He will do, in my humble opinion, much for this Commonwealth which has never been seen before because Ralph and I had one thing in common. That's don't ask me what you can do; tell me what we can't do and I'll make sure it's done, and whatever roadblocks may be put in Ralph's way I assure you he will find a way of accomplishing whatever purpose is intended. I assure you that he will do it in such a way that it will be a credit not only to him, the Cappy family, to the Bench and to the Bar, but to the entire Commonwealth of Pennsylvania.

So I say as I will administer the oath, God speed, good luck, but as my brother Dick said, you are his friends, never abandon him because he will always have an open ear. God bless you, Ralph. Good luck.

Will you all please stand now while I administer the oath.

Justice Cappy, do you swear that you will support and obey and defend the Constitution of the United States and the Constitution of this Commonwealth, that you will discharge the duties of your office with fidelity?

JUSTICE CAPPY: I will.

JUSTICE ZAPPALA: God bless you.

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CHIEF JUSTICE CAPPY: Thank you all very much. What a wonderful way to bring in the new year. I'm a lucky guy. I have almost everyone I love and care about in these courtrooms here today.

I want to begin by formally thanking His Eminence, Bishop Donald Wuerl. As you know, Bishop, the Bishop was kind enough to be here in 1990 when I was first sworn to this Court, and your presence here today, Bishop Wuerl, means a lot to me. Thank you.

I would also like to thank our former Chief Justice, my friend, Stephen A. Zappala. Stephen and I have been through a lot together. I will miss your counsel. I will miss your companionship, especially during those long trips across Pennsylvania. I thank Steve not only for myself and more importantly on behalf of the entire Court and the citizens of Pennsylvania for his years of steadfast public service and for his absolute unwavering loyalty to this institution.

Steve, you have had a remarkable career of public service. As a member of this Court, you have demonstrated extraordinary leadership, scholarship and most of all friendship, and we all thank you.

Richard, you may be chagrined to know that our former Chief Justice has been kind enough to accept an assignment as Chief Justice Emeritus and that an order will be signed very shortly formalizing this appointment. Steve has agreed to continue to oversee the ongoing computerization of the courts of the Commonwealth. As many of you know, Steve has overseen this project since its inception in the early 1990s. This project is bringing the unified judicial system envisioned in our Constitution into reality. With his continued help we are hopeful of completing this project in the not-too-distant future. Stephen, thank you very much for accepting the responsibility of completing this mission.

I would also like to thank Governor Mark Schweiker for being here and for the kind words you have spoken. Governor, I congratulate you on a wonderful career in public service. Your presence and command during the darkest hours of the Quecreek mining accident was simply inspiring. Speaking for

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the Court, I would like to thank you for your unwavering support for the proposed United Judicial Center to be built in Harrisburg, and I wish you continued success as you move into the private sector, and please do so with full knowledge and confidence that you have completed a job well done. Thank you for being here.

Governor-Elect Rendell and the Honorable Midge Rendell, thank you both for taking time to be here this morning, and thank you, Ed, for your thoughtful and generous comments. Everyone in Pennsylvania has high hopes of our new Governor's administration. I can tell you this, ladies and gentlemen, I have seen Ed Rendell in action firsthand.

In the early '90s, as he mentioned, I was assigned by this Court to reorganize the Philadelphia court system. Without Ed Rendell's guiding passion for a thoroughly reformed, efficient and honest system of justice, a system worthy of public trust, that reorganization simply could not have happened. What I saw in Philadelphia in a really tough situation the genuine intellect, the boundless practical energy and the deeply serious values of Ed Rendell will all be required as he moves to Harrisburg, and I wish you God speed, and I look forward to working with you. Thank you.

Chancellor Mark Nordenberg, thank you for those wonderful comments. Mark, you have done an incredible job in the past seven years leading the University of Pittsburgh back to its rightful place as one of the finest research institutions in the United States. Additionally, the partnership you have forged with the University of Pittsburgh Medical Center has resulted in Southwestern Pennsylvania having as good a system of medical care as exists anywhere in the world. One of the results of your outstanding leadership is the fact that the Pitt-UPMC union now is at the center of the economic well being of this entire region, and we are very grateful for that. You know you have my admiration, my respect and my friendship. Thank you.

My son Erik, I'm going to quote a former Chief Justice's comment that he made to our good friend Dick Zappala back in 1990. I didn't know you could speak in public. Son, I am

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proud of you. Your mother and I are proud of what you have done with your life and of the man you have become. Thank you for speaking on behalf of the family.

Ed Klett was the President of the Allegheny County Trial Lawyers, Academy of Trial Lawyers in 1990 and, as he mentioned, was a part of the program at my initial swearing in. Ed has continued to serve in the ensuing years. Since then he has served as Bar president here in the west and in many other capacities, as alluded to by the Chief Justice, Stephen Zappala. Included in that service was a service for 12 years on the Supreme Court of Pennsylvania Civil Procedural Rules Committee and six of those years as its chair. Ed, I deeply appreciate your friendship and your support over these past years. I thank you for those kind remarks, and I thank you for being here once again.

In 1990 Dick Zappala was a friend among friends who drew the short straw to speak on behalf of friends, as he has indicated, and he drew that short straw again today. Dick has also in the ensuing years served this Court and our Commonwealth as a member and chair of the Supreme Court Fund for Client Security for which we all thank him. Dick, I would like to thank you as a brother and call you brother, but you have enough brothers to go around, and if there's anyone in this room that knows it, it's me. So I will simply thank you for your friendship and your support, your counsel over these past years. Thank you.

And finally, I would like to thank the three Bar associations, Allegheny County, Pennsylvania Bar and the Philadelphia Bar for being so kind as to host the reception at the Rivers Club which immediately follows this ceremony and to which you are all invited. Your thoughtfulness is deeply appreciated.

I would like to acknowledge my family, and fortunately he's in the room this time. First of all, the finest man I have ever known, my father who was 89 years of age on December 8th last, may I present Joseph R. Cappy. We lost my mother in 1976, but I know she's up there smiling and looking down on us, and as my sister knows, she would be shaking her head

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and say, she would be probably saying, Ralphie, I told you to be a doctor. My sister, Patricia Smith, her husband Jack Smith, my nephew Officer Barry Smith, his wife Julie, my niece Kathy Shimko and her husband Brian, would you please stand.

One of the most wonderful people I have ever met in my life, a kind and gentle woman who, as I said last night, has taken me as her son, my mother-in-law Mae Tuteur. Mae's sister Margaret, her husband Lysle Sylves and their daughter Ellen, and I'm going to give one title because I just get a kick out of hearing this, and Major General Retired U.S. Army Reserve Rod Ruddock, would you please stand. Thank you all for being here and being so supportive over the past years.

My loving wife, you know, last night we were standing about to go into dinner, and I was involved in a conversation to the left and she was involved in a conversation to the right, and I think it was with Bill Lamb, and I overheard him say, could you have ever believed when you married Ralph that he would become Chief Justice of the Supreme Court of Pennsylvania? And she responded immediately by saying, that's exactly what I had planned for.

What needs to be said in private has been said many times over, but what needs to be said in public is this. Without Janet's unfailing love and support over the years I would not be here. Jan, thank you. I love you.

Now let me say a few words about this job as I see it. I am with those who believe that democracy, unlike any other form of government, is a blessing and a reward for a people willing to work for it, for a people willing to take the long way to solve problems. As far as philosophy is concerned, I pretty much agree with what one of my old professors said many, many years ago. There may be a few pure liberals and conservatives around who march in lock step, but I really don't know any, present company included. That is the way it should be because there really are things we ought to be conservative about and things we ought to be liberal about, and they do change.

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Democracy is a messy and cumbersome system that requires constant tending, never more so than during times such as these when our nation and institutions of self government are under attack. The Constitution is just a piece of paper, the Bill of Rights a piece of paper. Learned Hand also said that, and what I think he meant is that documents alone do not keep a democracy alive, nor do they maintain the rule of law. There is no particular safety in them. It is living men and women generation after generation who must continually remake democracy and the law, and that necessarily involves an ongoing state of tension between the past and the present which will never be completely resolved. For myself I'm quite comfortable with that.

It is true that those who cannot remember the past are doomed to repeat it, but it is also true that those who think only in the past may not know when it's over. Under our system of federalism this Court has a special responsibility to remember and, as necessary, to restate the old truths embodied in the Pennsylvania Declaration of Rights, a document which is older than the federal Bill of Rights.

We also have the responsibility to respond intelligently and thoughtfully to our developing circumstances, and as Chief Justice I have the additional responsibility for attempting to find common ground, common ground upon which members of this Court can agree in order to ensure that the Court speaks with one united voice whenever possible.

Our legal system exists to make more secure and more perfect the blessings of liberty and of our constitutional democracy. This Court is a vital part of the necessary common process of that democracy, and I rejoice in that and in the responsibility that it entails. I will do my very best to be worthy of its trust. Thank you.

CHIEF JUSTICE ZAPPALA: After he gave me a job I won't let him kiss me. I think before we conclude let me then formally introduce the Cappy team. On my far left Justice Eakin, Justice Newman and Justice Castille. On my far right Justice Saylor and Justice Nigro, and I wish them all well.

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On that note, as I understand it, and I think it's been said that there is a reception to follow at the Three Rivers, everybody is invited. Thank God for the bar associations. Bishop Wuerl, please, the benediction.

BISHOP WUERL: May it please the Court and our new Chief Justice, as this benediction concludes this gathering and this very important moment for our Commonwealth, I would like to leave with you three quotations, if I may.

The first is from Thomas Jefferson. These quotations will come from different segments of our society and culture, but Jefferson reflected upon something that I think we heard said about you over and over today. In a letter to John Henry he noted that he saw no distinction between personal integrity and public integrity because both of them are human virtues.

Twice today Learned Hand was cited, in your own remarks. The current holder of the Learned Hand chair of law at Harvard University, Dr. Marianne Glendon, recently in an article commented that the reason for the success of our democratic institutions is because the inculcation of virtue continues to be a part of our American dream.

And the final quotation is one that I think touches all of us as we so desperately long for peace in our world. Pope Paul the Sixth once reminded us if you want peace, work for justice, and our hopes today are so high because this Court speaks to this Commonwealth of that dream.

As we conclude then, let us pray. Good and loving God, we ask Your blessing on our nation, its aspirations and hopes, on this Commonwealth and its dreams, on its people, on its Court and on our new Chief Justice. Bless us all so that we might always walk in the way of justice and peace. Amen.

(Whereupon, the proceedings were concluded at 12:25 p.m.)

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